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THE THREATENED STRIKE ON THE RAILWAYS

BY SAMUEL O. DUNN

THE nation-wide wage movement by the train service employees of the railways of the United States has had unprecedented and startling effects. It has brought the country to the verge of a strike which would have been the most disastrous in history. It has caused the destruction of the principle of voluntary arbitration of railway labor disputes. It has been marked by the intervention of the President of the United States in a manner which has engendered damaging suspicions regarding his motives and has called forth bitter denunciation of his conduct. It has caused Congress to abdicate its function as a deliberative body, and to rush through a measure which is without precedent in the annals of legislation, and which, if it is upheld by the courts, will impose a heavy burden directly on the railways and indirectly on the American public. It has interpolated into a national political campaign which had been dull and colorless two issues of vital importance, namely, whether we shall use orderly and peaceable or disorderly and destructive methods in settling labor disputes, and whether "government of, for and by the people" shall be allowed to be overthrown by the pressure of organized groups seeking to use the machinery of government for their own purposes. And after having produced all these results, this wage movement has not been conducted to a final settlement.

The law passed by Congress at the dictation of the labor unions purports to establish an eight-hour day in train service. It shows clearly on its face, however, that its effect would be not to reduce the working hours of those for whose benefit it was enacted, but merely to increase their wages.

This being the case, it is regarded by most lawyers as unconstitutional. Should it be nullified the train service employees doubtless would renew their movement, and again prepare to strike if their demands were not granted, and yet, while Congress has temporarily placated them by passing the legislation which they named as their price for not striking, it has adjourned without doing anything to prevent the danger of a nation-wide railway strike from recurring.

In order to grasp the full significance of this movement and of all the developments in connection with it, it is necessary to follow it step by step from its inception. It began just about a year ago. From the first it was announced that the train employees were going to seek an eight-hour day and that, being dissatisfied with previous awards, they would not consent to arbitration. Their exact proposals became public last January. They were at once denounced by the spokesmen of the railways as contemplating a fraudulent "eight-hour day," the establishment of which would not shorten working hours, but merely increase wages. It was added that the train employees had received large advances in wages within recent years, that they were the best paid workingmen in the country, and that if any increases were to be made in the wages paid by the railways the claims of the other 80 per cent of their employees deserved prior consideration.

For some months before the demands were presented the leaders of the brotherhoods addressed meetings of their followers throughout the country at which they explained their plans and urged united support of them. About five months ago they began to express confidence that, although they would not arbitrate, they would conduct the movement to success without a strike. W. S. Stone, grand chief of the Brotherhood of Locomotive Engineers, and W. G. Lee, president of the Brotherhood of Railroad Trainmen, were quoted as saying at meetings held at St. Louis on April 9 "that they were absolutely confident of winning out, but that they were going to do a certain thing which only the presidents of the four brotherhoods knew about and which they did not propose to tell any one, but that it would be the deciding factor in winning out in this fight."

The managers of the railways entertained no such confidence that a strike would be avoided. They were de-

terminated not to grant the demands without arbitration, and as the leaders of the brotherhoods said they would not arbitrate the managers felt that a real and serious danger existed and repeatedly issued statements to this effect. The business interests of the country also became alarmed; and the Chamber of Commerce of the United States submitted to its members a resolution which contemplated action by Congress to provide for an investigation by the Interstate Commerce Commission of the entire railway wage situation.

The demands of the employees were formally presented to the individual carriers on March 30, and negotiations regarding them began in New York City early in June between the Conference Committee of the Railways and committees representing the employees. The demands already have been summarized and analyzed by the writer in an article published in this REVIEW for July, 1916. They were, in brief, that the roads should in future pay employees in freight train and yard service the same wages for eight hours' work that they were paying them for ten, and overtime after eight hours at 150 per cent of the regular hourly rate. Negotiations continued to the middle of June. Meantime, the Chamber of Commerce of the United States voted by 981 to 29 in favor of asking Congress to direct the Interstate Commerce Commission to investigate the entire matter of wages on railways.

The negotiations having proved fruitless, the Conference Committee of the Railways proposed arbitration of all the points in controversy either by the Interstate Commerce Commission, or by a board to be organized under the Newlands Mediation and Arbitration Law. The leaders of the brotherhoods rejected this alternative proposition and immediately began to take a strike vote.

The ballot submitted to the men was phrased in such a manner as to give them no opportunity to indicate their sentiments on the question of arbitration. It simply presented them the alternative of voting for or against giving their leaders authority to order a strike. There never was any question that the men would give their leaders this authority. The situation began to look extremely grave. There were, however, two classes who continued to act and to express themselves with complacent optimism. These were the leaders of the railway brotherhoods, and the leaders in governmental affairs at Washington. The resolution of the

Chamber of Commerce of the United States was sent to President Wilson, but was given no public acknowledgement by him. It was introduced in Congress, but no steps were taken toward passing it. The chairman of the Railroad Committee of the Chamber of Commerce finally sent a long telegram to President Wilson urging upon him the imperative need for governmental action, but the President paid no heed to it. Meantime, Judge Chambers of the Federal Mediation and Conciliation Board gave out an interview in which he expressed confidence that there would be no strike, and on July 21 Chairman Adamson of the House Committee on Interstate and Foreign Commerce, in discussing the Chamber of Commerce resolution, said that he had conferred with the leaders of the railway brotherhoods and that they had assured him they did not intend to "stop the wheels."

Thus, although a vote to authorize the declaration of the greatest railway strike ever contemplated was being taken, and although many persons regarded the situation with great apprehension, the President and the Congress never lifted a finger to protect the country. The leaders of the brotherhoods also continued to give out statements predicting that there would be no strike. They went farther, and explained why there would be none. There was to be no strike *because the railways would finally yield and grant the men's demands.*

The strike vote having been completed, it was arranged that the committees representing the railways and the brotherhoods should meet again in New York City on August 8. Two days before, on the evening of August 6, a public meeting was held in New York City under the auspices of the railway brotherhoods. Among those who made addresses on that occasion was Dudley Field Malone. Mr. Malone was the personal representative of President Wilson at the inauguration of the President of Cuba and is now by his appointment collector of the port of New York. He denounced the railways, and unequivocally supported the demand of the labor brotherhoods for an "eight-hour day." Meantime reports began to be circulated in Washington and New York that there was an understanding between the National Administration and Samuel Gompers, president of the American Federation of Labor, and the leaders of the labor brotherhoods, that President Wilson would be given an opportunity to make capital out of the threatened strike. This, it was said, was to

be done in the following manner: The brotherhoods were to reject all offers made by the railways. They were to look askance at mediation by the Federal Board of Mediation and Conciliation, thus giving the President a chance to intervene and bring both sides to the White House. He would then submit a proposition which in all probability would be accepted by the labor leaders, thus putting the onus of rejection of his services, if they were rejected, on the railroads.

On August 8 the representatives of the brotherhoods reported the strike vote. The Conference Committee of the Railways took the ground that the two parties were too far apart to effect a settlement by direct negotiations, and asked the brotherhoods to join with the railways in inviting mediation by the Federal Board of Mediation and Conciliation. This request was declined. The railways then alone called in the Board of Mediation. Mediation proving as unavailing as direct negotiations, President Wilson on August 13 asked the representatives of both sides to come to the White House. The Conference Committee of the Railways had contended throughout that the best body to which the controversy could be submitted was the Interstate Commerce Commission. On August 11, two days before he sent for the representatives of the brotherhoods and the railways, and while the mediation conferences were still in progress, President Wilson wrote a letter to the president of the Boston Chamber of Commerce, making clear that he did not favor submitting the matter to the Commission. In other words, he rejected the plan for a settlement which he knew was favored by the railways before they had an opportunity to present it to him.

After various conferences with both sides Mr. Wilson announced the basis which he favored for a settlement. This was, (1) Concession of eight-hour day. (2) Postponement of the other demand, as to payment for overtime, and the counter suggestions of the railways, until experience actually disclosed the consequences of the eight-hour day. (3) In the meantime, the constitution, by authority of the Congress, of a commission or body of men appointed by the President to observe, investigate and report upon these consequences without recommendation. (4) Then such action upon the facts as the parties to the controversy might think best.

This would have finally settled nothing except that the employees would have secured the "basic eight-hour day." It did not provide for the arbitration of any of the other

matters in controversy. The Conference Committee of the Railways explained fully that the physical conditions under which the railways were operated made the establishment of an absolute eight-hour day in train service impracticable and that the brotherhoods were merely asking for the substitution of eight hours for ten hours as the basis for computing daily wages and overtime. The President said he understood this, but insisted upon the adoption of his plan. The National Conference Committee of the Railways finally told him they could not accept it.

President Wilson thereupon telegraphed for the presidents of all the leading railways, and in response to his invitation there assembled in Washington more heads of large railways than ever met before in the history of the United States. While they were gathering the committees representing the brotherhoods announced their acceptance of the President's plan.

The railway executives called upon President Wilson on August 19. He then told them he did not regard the eight-hour day as an "arbitrable question," and while the conference was in progress he caused a statement to be given out in which he said: "The eight-hour day now undoubtedly has the sanction of the judgment of society in its favor and should be adopted as a basis for wages even where the actual work to be done cannot be completed within eight hours."

The views expressed by the President introduced entirely new elements into the controversy. The brotherhood leaders had opposed arbitration solely on the ground that impartial and expert arbitrators could not be secured under the Newlands Act and that the temporary boards organized under this law were unable to enforce their awards. The railways' proposal that the matter be submitted to the Interstate Commerce Commission seemed to meet all these objections, since it is to be assumed that the Commission is an impartial and expert body, and it certainly could enforce any award it might make. The contention of the President that the eight-hour day had been sanctioned by the judgment of society and, therefore, did not present an arbitrable question, was as novel to the leaders of the brotherhoods as it was to the railway executives and to the public, and aroused other business interests as much as those identified with transportation.

The situation created by the attitude assumed and the sentiments expressed by President Wilson presented to the

railway executives a most perplexing problem. The railways are anxious to have the system of regulation applied to them reformed and improved, and their presidents naturally feared that if they rejected the President's proposals they might array his Administration against them. This might be a serious matter for them during the rest of his term of office and a still more serious matter if he should be re-elected. On the other hand, they knew that if they accepted the eight-hour wage basis in freight train service, even without time and a half for overtime, it would add over \$60,000,000 a year to operating expenses. They knew that this concession would be regarded by the train service employees as having been made, not because President Wilson had asked for it, but because the train service employees were threatening to strike, and that, therefore, it would have a most demoralizing effect on discipline. They knew that if they voluntarily made such large increases in wages to one class of their employees who had refused to arbitrate and threatened to strike, they speedily would be confronted with corresponding demands from other employees some of whom probably would resort to similar measures, and that the ultimate result would be total increases in wages and operating expenses which would run into hundreds of millions a year. They also knew that if they yielded they would be condemned by the business interests of the entire country, for they were being deluged with letters and telegrams from individuals and commercial organizations in every section urging them to stand firm for arbitration. This condemnation of them by the business interests would undoubtedly be accompanied by bitter and determined opposition to any advance in freight rates to offset the increases in wages; and the Administration gave them only very intangible encouragement regarding this phase of the matter. Finally, the railway presidents realized that if they accepted President Wilson's plan it would not even settle the present controversy, but that in a few months the train employees might renew their demand for time and a half for overtime, refuse to arbitrate it, and strike if it were not granted.

After conferring for almost a week, and considering various plans, the railway presidents decided that for them to accept President Wilson's proposition would be to wrong the stockholders of the railways, the 80 per cent of their employees not involved in the controversy and the American

public, and that they must hold out for arbitration. They reached this decision on August 25, and intended to communicate it to President Wilson the next morning. Before they had opportunity to do so the leaders of the brotherhoods got wind of it and immediately issued an order for a strike to occur on September 4 at seven o'clock A. M. The first news President Wilson received of their action was taken to him by a committee of the railway presidents.

As a means of preventing a strike the railway executives suggested to the President "the enactment by Congress at once of a law within the policy of the Canadian Industrial Disputes Investigation Act, which in itself will furnish a guarantee against hasty action now and against the recurrence of such an unfortunate situation in the future." With respect to the matters directly in controversy, they said they were "unable to assent to the statement that 'the eight-hour day.' now undoubtedly has the sanction of the judgment of society in its favor." They added,

We believe, that society has not yet recorded its judgment upon this subject. * * * * As trustees for the public served by our lines, and for the great mass of the less powerful employees (not less than 80 per cent of the whole number) interested in the railway wage fund, as trustees also for the millions of people that have invested their savings and capital in the bonds and stocks of these properties * * * * we cannot in conscience surrender without a hearing the principle involved, nor undertake to transfer the enormous cost that will result to the transportation of the commerce of the country.

They maintained that "the questions involved are, in our respectful judgment, eminently suitable for calm investigation and decision by the public through the agency of fair arbitration and cannot be disposed of to the public satisfaction in any other manner." They suggested as an alternative to the proposals of the President that (1) the railroads should begin on September 1 to so keep the time of all men represented in this movement as to ascertain the difference between what they actually earned on the present basis and what they would have earned on the proposed eight-hour basis; (2) the keeping of these accounts should be supervised by the Interstate Commerce Commission; (3) the whole question of the eight-hour day "in so far as it affects the railroads and their employees should be investigated and deter-

mined by a commission to be appointed by the President," and to consist of not less than five members. The President evidently considered himself too far committed on the question of an eight-hour day to even suggest to the brotherhoods the acceptance of the railways' proposition. Instead he went before a joint session of Congress on August 28 and asked for the adoption of legislation for the following purposes:

1. The immediate enlargement of the Interstate Commerce Commission.

2. "The establishment of an eight-hour day as a legal basis alike of work and of wages" of railway employees engaged in operating trains.

3. The authorization of the appointment by the President of a small body of men to observe and report without recommendation "the actual results in experience of the adoption of the eight-hour day."

4. "The consideration by the Interstate Commerce Commission of an increase in freight rates to meet such additional expenditures by the railways as might be rendered necessary by the proposed legislation."

5. Full investigation before a strike or lockout may lawfully be attempted of every dispute which might lead to interference with train service.

6. The lodgment in the hands of the President of the power, in case of military necessity, to take control of, and operate, the railways.

The President appealed repeatedly to the leaders of the labor brotherhoods to withdraw the strike order pending consideration of this legislation, and they as often refused. They notified him, Congress and the public that unless a law establishing the "basic eight-hour day" was passed by midnight of September 2 the strike would occur. A bill to comply with their wishes was hastily framed and introduced by Mr. Adamson, chairman of the House Committee on Interstate and Foreign Commerce. While these developments were occurring a remarkable interview with Mr. Adamson appeared in the *Atlanta Constitution*. I quote the *Atlanta Constitution* of August 23 as follows: "Mr. Adamson said he had a conference four months ago with the President and a conclusion was reached as to his course at that time."

With the leaders of the brotherhoods holding a stop-watch on it, Congress jammed through the Adamson bill,

It was passed by the House on September 1 and by the Senate on September 2. Its salient provision is

that beginning January 1, 1917, eight hours shall, in contracts for labor and service, be deemed a day's work and the measure or standard of a day's work for the purpose of reckoning the compensation for services of all employees * * * * who are now or may hereafter be actually engaged in any capacity in the operation of trains used for the transportation of persons or property on railroads.

Electric lines and railroads less than 100 miles long are excepted. The President is authorized to appoint a commission of three to observe the operation and effects of the law for not less than six nor more than nine months, and then report its findings to the President and Congress. Until a period of thirty days after the report is rendered

the compensation of railway employees subject to this act for a standard eight-hour work-day shall not be reduced below the present standard day's wage, and for all necessary time in excess of eight hours such employees shall be paid at a rate not less than the pro rata rate for such standard eight-hour work-day.

The labor leaders opposed the measure to prohibit strikes and lockouts in advance of public investigation of labor controversies, and the President and Congress abandoned it. The Government of the United States having thus abjectly yielded to their dictation all along the line, the leaders of the brotherhoods recalled the order for a strike.

Probably few persons have failed to note that these events in Washington took place in a Presidential campaign, and to wonder what part politics had in shaping them. Reference already has been made to the seeming indifference long manifested by the Administration in the face of the approach of a national disaster. Reference also has been made to the remarkable similarity between the views expressed by representatives of the labor brotherhoods and representatives of the Administration as to the probability of a strike. Then, we have the very accurate forecasts which were made in Washington and New York as to the way in which both the brotherhoods and President Wilson would conduct themselves, and the extraordinary interview of Mr. Adamson concerning his conference with President Wilson four months before. The conclusion suggested as to the part played by politics is painfully obvious.

Whether the Administration was playing politics or not, the course it adopted in dealing with the situation was unwise and dangerous in the extreme. It never publicly took a step regarding it until the strike vote had been reported. The Newlands Act, providing a means for arbitrating such disputes, was passed at the joint request of the labor brotherhoods and the railways, and signed by President Wilson. Yet when the crisis reached the President he announced, before he had made any real effort to secure arbitration, that the brotherhoods would not accept it, and that the main question involved was not arbitrable, anyway. It seems probable that the brotherhoods would have been forced by public opinion to arbitrate if the President had demanded it, but of course they would not voluntarily do so after he had espoused their cause and gone even farther than they in arguing for the "basic eight-hour day." The President's action seems to have been predicated on the confident assumption that the railway executives would yield when he insisted on acceptance of his plan of settlement. On their refusing to do so there were left, as a result of his elimination of arbitration, only two alternatives, action by Congress, or a strike. If the strike had come the President's responsibility for it would have been second only to that of the labor leaders; and for the frenzied legislation enacted his responsibility is paramount.

The effects of President Wilson's pronouncement regarding the "sanction of the judgment of society," and of the attempt to give this "sanction" statutory effect on the railways, may be very serious, not only for the carriers, but for the public in general. The new law fixes an eight-hour *pay-day*, not an eight-hour *work-day*. The nature of the service rendered by railways may justify special regulation of the *work-day* of their employees, but it can hardly justify special regulation of their *pay-day*. If the law stands it will result in a large increase in wages which, in the long run, will be paid by the public in the form of higher freight and passenger rates. If a law to fix an eight-hour *pay-day* in railway train service at the expense of the public can be sustained, why cannot similar legislation for all railway employees and for the employees of all concerns engaged in interstate commerce be sustained? President Wilson did not limit his remark regarding society's sanction of the eight-hour day to railway service.

While the President says that the eight-hour day has received the "sanction of the judgment of society," the fact is it has as yet received only limited adoption. Reports of the Bureau of Labor give the hours of work in eight different industries employing 317,000 men in 1913 and 1914. A compilation of these shows that only 8,259, or less than 3 per cent of the employees included, worked as little as 48 hours or less per week. Evidently, if an eight-hour pay-day is to be forced upon industry in general, the country is confronted with an economic revolution of the first magnitude, and one which does not seem adapted to help American industry to meet foreign competition in the markets of the world after the war in Europe ends. It does not seem likely, however, that the railways will accept the eight-hour pay-day prescribed by Congress without a determined legal contest.

While it can be questioned whether the eight-hour pay-day has been sanctioned by the judgment of society, it cannot be questioned that arbitration of railway labor disputes has been thus sanctioned. The attitude of American society has been expressed by the enactment of the Newlands Mediation and Arbitration law. This law provides, however, for voluntary arbitration only, and in the recent struggle voluntary arbitration broke down completely. But the country must be relieved of the danger of nation-wide railway strikes. On this point President Wilson and all other parties, except the leaders of organized labor, are agreed. Everybody knows now that such strikes can and may occur, and the law providing for voluntary arbitration having broken down, the public welfare demands some stronger measure. Probably the next step in advance should be the passage of a law similar to the Canadian Industrial Disputes Act, providing that no strike or lockout which will interfere with railway service may be declared until some tribunal representing the public has investigated and reported upon the matters in controversy. The duty of conducting such investigations might be delegated to some new body, but it would appear that it could be best and most appropriately performed by the Interstate Commerce Commission. Wages are the largest element in railway expenses, and, so far as there is to be regulation of them, it would seem that it should be intrusted to the body that regulates railway rates and earnings.

The recent crisis directs attention forcibly to the extraordinary influence which labor organizations are securing in the public affairs of the United States. Some years ago the nation began to feel concern regarding the power which was being acquired by large aggregations of capital. This has led to the enactment and enforcement of numerous laws for the control of the activities of capital, and the political influence of large corporations has been largely destroyed. Meantime, organized labor has been resorting to methods similar to those which aroused the fear and indignation of the public against organized capital. The American Federation of Labor and the railway labor brotherhoods are constantly represented by lobbyists at the various State Capitals and in Washington. The results of their activities have been writ large in the statute books of almost all the States. For example, the railway brotherhoods have secured the enactment of numerous State laws, such as those providing for the employment of extra men in train crews, which tend directly to interfere with the efficiency of railway operation and to increase railway expenses.

One of the worst examples of the legislation which has been secured by labor unions at Washington is the provision of the Clayton Act exempting such organizations from the operation of the Federal anti-trust law. The anti-trust law prohibits conspiracies in restraint of interstate trade and commerce. The recent order of the railway brotherhoods for a strike grew out of and would have given effect to a conspiracy not merely to restrain but to suspend all interstate trade and commerce. And yet, because of the class legislation embodied in the Clayton Act, it was assumed, and perhaps correctly, that those who formed this conspiracy could not be proceeded against under the anti-trust law. When organizations of labor can secure such class legislation as this provision of the Clayton Act and without interference can enter into such a gigantic conspiracy against trade and commerce, and when, in addition, they can extort from Congress such legislation as the so-called "eight-hour day" law, they have acquired a control over our Government far exceeding that ever possessed by the "malefactors of great wealth" in their palmiest days.

It may be said that organized labor at least constitutes a larger part of the public than the managers and bene-

ficiaries of organized capital. But the railway brotherhoods comprise less than 20 per cent of railway employees, and a large majority of all railway employees do not belong to any labor unions. Furthermore, it is estimated by Prof. George E. Barnett of Johns Hopkins University that the members of all labor unions comprise only 6 per cent of the "gainfully employed" persons in this country. Therefore, the power which the labor unions have acquired over American Government is a power which is possessed and exercised by and for a comparatively few people and at the expense of the entire nation.

The whole situation raises a question as to the future of democracy itself. Democratic government does not consist in government of the many by and for the benefit of a few, whether this few be members of the capitalist class or members of labor unions. It consists in "government of the people, by the people and for the people." It can hardly be contended that legislation such as that for extra men in train crews, for exempting labor unions from the operation of the anti-trust law, and for an eight-hour pay-day for only 20 per cent of railway employees without regard to the effect on the other 80 per cent of railway employees or on the public, affords an exemplification of "government of the people, by the people and for the people."

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